

AMENDED IN SENATE MARCH 25, 2014

SENATE BILL

No. 1383

Introduced by Senator Hueso

February 21, 2014

An act to amend ~~Sections 42356, 42356.1, 42356.2, Section 42357; and 42357.5~~ of the Public Resources Code, relating to ~~recycling solid waste~~.

LEGISLATIVE COUNSEL'S DIGEST

SB 1383, as amended, Hueso. ~~Recycling: plastic~~ *Plastic* products: labeling.

Existing law prohibits the sale of a plastic product labeled as “compostable,” “home compostable,” or “marine degradable” unless it meets a certain specification, certification, or standard and prohibits the sale of a plastic product that is labeled as “biodegradable,” “degradable,” “decomposable,” or as otherwise specified. The term “plastic product” is defined for purposes of these prohibitions.

~~This bill would permit the sale of agricultural mulch film, as defined, that is labeled as biodegradable, or labeled as otherwise specified, if the product biodegrades in soil after being used and meets other specified conditions. The bill would also make conforming changes.~~

This bill would require the Department of Resources Recycling and Recovery to adopt a specified standard for the biodegradability of plastics upon the American Society for Testing and Materials adopting that standard. The bill would prohibit a person from selling in the state agricultural mulch film, as defined, labeled as biodegradable unless it meets this standard.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. ~~Section 42356 of the Public Resources Code is amended to read:~~

~~42356. For purposes of this chapter, the following definitions apply:~~

~~(a) "Agricultural mulch film" means film plastic that is used as a technical tool in commercial farming applications.~~

~~(b) "ASTM" means the American Society for Testing and Materials.~~

~~(c) (1) "ASTM standard specification" means one of the following:~~

~~(A) The ASTM Standard Specification for Compostable Plastics D6400, as published in September 2004, except as provided in subdivision (c) of Section 42356.1.~~

~~(B) The ASTM Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment D7081, as published in August 2005, except as provided in subdivision (c) of Section 42356.1.~~

~~(C) The ASTM Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates D6868, as published in August 2003, except as specified in subdivision (c) of Section 42356.1.~~

~~(2) "ASTM standard specification" does not include an ASTM Standard Guide, a Standard Practice, or a Standard Test Method.~~

~~(d) "Department" means the Department of Resources Recycling and Recovery.~~

~~(e) "Manufacturer" means a person, firm, association, partnership, or corporation that produces a plastic product.~~

~~(f) "OK home compost" means conformity with the existing Vincotte certification "OK Compost HOME certification" which, as of January 1, 2011, uses European Norm 13432 standard adapted to low-temperature composting in accordance with the Vincotte program "OK 2-Home Compostability of Products."~~

~~(g) "OK soil biodegradable soil" means a product that conforms with the existing Vincotte certification OK biodegradable soil certification, as in effect on January 1, 2011.~~

~~(h) "Plastic product" means a product made of plastic, whether alone or in combination with other material, including, but not~~

1 limited to, paperboard. A plastic product includes, but is not limited
2 to, any of the following:

3 (1) ~~(A) A consumer product.~~

4 (B) For purposes of this paragraph, “consumer product” means
5 a product or part of a product that is used, bought, or leased for
6 use by a person for any purpose.

7 (2) ~~A package or a packaging component.~~

8 (3) ~~A bag, sack, wrap, or other thin plastic sheet film product.~~

9 (4) ~~A food or beverage container or a container component,~~
10 ~~including, but not limited to, a straw, lid, or utensil.~~

11 (i) ~~“Supplier” means a person who does one or more of the~~
12 ~~following:~~

13 (1) ~~Sells, offers for sale, or offers for promotional purposes, a~~
14 ~~plastic product that is used.~~

15 (2) ~~Takes title to a plastic product, produced either domestically~~
16 ~~or in a foreign country, that is purchased for resale or promotional~~
17 ~~purposes.~~

18 (j) ~~“Vincotte certification” means a certification of a European~~
19 ~~norm (EN) standard adopted by the Belgian-accredited inspection~~
20 ~~and certification organization Vincotte.~~

21 SEC. 2. ~~Section 42356.1 of the Public Resources Code is~~
22 ~~amended to read:~~

23 ~~42356.1. (a) If an ASTM standard specification specified in~~
24 ~~paragraph (1) of subdivision (e) of Section 42356 is subsequently~~
25 ~~revised, the department shall review the new ASTM standard~~
26 ~~specification as follows:~~

27 (1) ~~If the department determines that the new standard, when~~
28 ~~compared to the ASTM standard specification prior to its revision,~~
29 ~~is more stringent and more protective of public health, public~~
30 ~~safety, and the environment, and is reflective of and consistent~~
31 ~~with state policies and programs, the department may adopt the~~
32 ~~new standard.~~

33 (2) ~~If the department determines that the new standard, when~~
34 ~~compared to the ASTM standard specification prior to its revision,~~
35 ~~is not as stringent and does not protect public health, public safety,~~
36 ~~and the environment, and is not reflective of and consistent with~~
37 ~~state policies and programs, the department shall not adopt the~~
38 ~~new standard.~~

39 (b) ~~If the ASTM, or any other entity, develops a new standard~~
40 ~~specification or other applicable standard for any of the terms~~

1 prohibited under subdivision (a) of Section 42357, the department
2 may review the new standard and, if the department determines
3 that the new standard for the prohibited term, when compared to
4 the current ASTM standard in effect, is more stringent and more
5 protective of public health, public safety, and the environment,
6 and is reflective of and consistent with state policies and programs,
7 the department may make a recommendation to the Legislature.

8 (e) Compliance with a standard adopted pursuant to paragraph
9 (1) of subdivision (a) shall be deemed to be in compliance with
10 this chapter.

11 SEC. 3. Section 42356.2 of the Public Resources Code is
12 amended to read:

13 42356.2. The department may adopt an existing standard
14 different from an ASTM standard specification, as described in
15 paragraph (1) of subdivision (e) of Section 42356, if all the
16 following conditions are met:

17 (a) The existing standard is adopted or developed by a
18 standard-setting organization recognized by the department,
19 including, but not limited to, the ASTM or another similar
20 organization.

21 (b) The existing standard adds qualifications to an ASTM
22 standard specification, as described in paragraph (1) of subdivision
23 (e) of Section 42356, including, but not limited to, “home
24 compostable.”

25 (c) The department determines that the existing standard is more
26 stringent than the ASTM standard specification in paragraph (1)
27 of subdivision (e) of Section 42356 which that existing standard
28 qualifies.

29 SEC. 4.

30 SECTION 1. Section 42357 of the Public Resources Code is
31 amended to read:

32 42357. (a) (1) Except as provided in paragraph (3) ~~or~~
33 ~~subdivision (e)~~, a person shall not sell a plastic product in this state
34 that is labeled with the term “compostable,” “home compostable,”
35 or “marine degradable” unless, at the time of sale, the plastic
36 product meets the applicable ASTM standard specification, as
37 specified in paragraph (1) of subdivision ~~(e)~~ (b) of Section 42356
38 or the Vincotte OK Compost HOME certification, as provided in
39 paragraph (4).

1 (2) Compliance with only a section or a portion of a section of
2 an applicable ASTM standard specification does not constitute
3 compliance with paragraph (1).

4 (3) Notwithstanding paragraph (1), a person may sell a plastic
5 product in this state that is labeled with a qualified claim for a term
6 specified in paragraph (1), if the plastic product meets the relevant
7 standard adopted by the department pursuant to Section 42356.2.

8 (4) (A) A plastic product shall not be labeled with the term
9 “home compostable” unless the manufacturer of that plastic product
10 holds a Vincotte OK Compost HOME certificate of conformity
11 with regard to that product, except as provided in subparagraph
12 (B) or (C).

13 (B) Notwithstanding paragraph (1), if the ASTM adopts a
14 standard specification for the term “home compostable” on or
15 before January 1, 2016, and the department determines that the
16 ASTM standard specification is at least equal to, or more stringent
17 than, the OK Compost HOME certification, a plastic product
18 labeled with the term “home compostable” shall meet that ASTM
19 standard specification. The department may also take the actions
20 specified in Section 42356.1 with regard to an ASTM standard for
21 home compostability.

22 (C) If the department adopts a standard pursuant to Section
23 42356.2, a plastic product labeled with the term “home
24 compostable” shall meet that standard and not the standard
25 specified in subparagraph (A) or (B).

26 (b) Except as provided in subdivision (a) or (e), a person shall
27 not sell a plastic product in this state that is labeled with the term
28 “biodegradable,” “degradable,” or “decomposable,” or any form
29 of those terms, or in any way imply that the plastic product will
30 break down, fragment, biodegrade, or decompose in a landfill or
31 other environment.

32 (c) A manufacturer or supplier, upon the request of a member
33 of the public, shall submit to that member, within 90 days of the
34 request, information and documentation demonstrating compliance
35 with this chapter, in a format that is easy to understand and
36 scientifically accurate.

37 (d) A product that is in compliance with this chapter shall not,
38 solely as a result of that compliance, be deemed to be in compliance
39 with any other applicable marketing requirement or guideline
40 established under state law or by the Federal Trade Commission.

1 (e) ~~A person may sell agricultural mulch film in this state that~~
2 ~~is labeled as biodegradable, or labeled as otherwise specified in~~
3 ~~subdivision (a) or (b), if the product biodegrades in soil after being~~
4 ~~used, and satisfies both of the following conditions:~~

5 (1) ~~The product meets the ASTM Standard Specification for~~
6 ~~Compostable Plastics D6400.~~

7 (2) ~~The product is one of the following:~~

8 (A) ~~OK soil biodegradable soil.~~

9 (B) ~~A product that achieves at least 90 percent biodegradation,~~
10 ~~in either soil absolute or relative to microcrystalline cellulose, in~~
11 ~~soil in less than two years, when tested according to the ISO~~
12 ~~(International Organization for Standardization) Standard 17556~~
13 ~~or the ASTM D5988 - 12 Standard Test Method for Determining~~
14 ~~Aerobic Biodegradation of Plastic Materials in Soil.~~

15 (e) (1) *Upon the ASTM adoption of a standard for Work Item*
16 *ASTM WK29802, New Specification for Aerobically Biodegradable*
17 *Plastics in Soil Environment in the Temperate Zone, the department*
18 *shall adopt that standard.*

19 (2) *A person may sell agricultural mulch film labeled with the*
20 *term “biodegradable” if it meets the standard that the department*
21 *has adopted pursuant to paragraph (1).*

22 (3) *For purposes of this subdivision, “agricultural mulch film”*
23 *means film plastic that is used as a technical tool in commercial*
24 *farming applications.*

25 ~~SEC. 5. Section 42357.5 of the Public Resources Code is~~
26 ~~amended to read:~~

27 ~~42357.5. (a) A manufacturer of a compostable plastic bag~~
28 ~~meeting an ASTM standard specification specified in paragraph~~
29 ~~(1) of subdivision (e) of Section 42356 or Section 42356.1 shall~~
30 ~~ensure that the compostable plastic bag is readily and easily~~
31 ~~identifiable from other plastic bags in a manner that is consistent~~
32 ~~with the Federal Trade Commission Guides for the Use of~~
33 ~~Environmental Marketing Claims (Part 260 (commencing with~~
34 ~~Section 260.1) of Subchapter B of Chapter I of Title 16 of the Code~~
35 ~~of Federal Regulations).~~

36 (b) ~~For purposes of this section, “readily and easily identifiable”~~
37 ~~means labeling that meets both of the following requirements:~~

38 (1) ~~Labeled with a certification logo indicating the bag meets~~
39 ~~the ASTM D6400 standard specification if the bag has been~~

1 ~~certified as meeting that standard by a recognized third-party~~
2 ~~independent verification.~~

3 ~~(2) Labeled in accordance with one of the following:~~

4 ~~(A) The bag is made of a uniform color of green and labeled~~
5 ~~with the word “compostable” on one side of the bag, and the label~~
6 ~~shall be at least one inch in height.~~

7 ~~(B) Labeled with the word “compostable” on both sides of the~~
8 ~~bag and the label shall be one of the following:~~

9 ~~(i) Green color lettering at least one inch in height.~~

10 ~~(ii) Within a contrasting green color band of at least one inch~~
11 ~~in height on both sides of the bag with color contrasting lettering~~
12 ~~of at least one-half inch in height.~~

13 ~~(c) Notwithstanding paragraph (2) of subdivision (b), if the bag~~
14 ~~is smaller than 14 inches by 14 inches, the lettering and stripe shall~~
15 ~~be in proportion to the size of the bag.~~

16 ~~(d) A compostable plastic bag sold or distributed in the state~~
17 ~~shall not display a chasing arrow resin identification code or~~
18 ~~recycling type of symbol in any form.~~

19 ~~(e) A manufacturer is required to comply with this section only~~
20 ~~to the extent that the labeling requirements of subdivisions (b);~~
21 ~~(c), and (d) do not conflict with the Federal Trade Commission~~
22 ~~Guides for the Use of Environmental Marketing Claims (Part 260~~
23 ~~(commencing with Section 260.1) of Subchapter B of Chapter I~~
24 ~~of Title 16 of the Code of Federal Regulations).~~